

Notice of Allowability

Application No.

10/074,356

Examiner

Ismael Negron

Applicant(s)

TUFTE, BRIAN N.

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to After Final Amendment filed February 24, 2005.
2. ☒ The allowed claim(s) is/are 1-3, 7-14, 16-24 and 26-50.
3. ☒ The drawings filed on 02 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date <u>2/24/05</u> | 7. <input type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

DETAILED ACTION

Response to Amendment

1. Applicant's After-Final amendment filed on February 24, 2005 has been entered. Claims 1, 10, 11, 19, 21, 30 and 35-50 have been amended. Claim 6 has been cancelled. No claim has been added. Claims 1-3, 7-14, 16-24 and 26-50 are still pending in this application, with claims 1, 10, 11, 19, 21-24 and 26-31 being independent.

Allowable Subject Matter

2. Claims 1-3, 7-14, 16-24 and 26-50 allowed.

3. The following is an examiner's statement of reasons for allowance: ✓

Applicant teaches an illumination device having an elongated light source received in a cavity of an elongated member, such member being forcibly inserted into a slot of an elongated carrier. The elongated light source is inserted in the cavity through a slit formed in the elongated member. The slot and the member are adapted so that when the elongated member is in the slot, the carrier forces the slit in the elongated member into a closed, or substantially closed position. The elongated member having a material that is at least partially transparent, and a non-transparent material. The carrier is at least partially deformed to receive the elongated member.

The combined teachings of **Burkitt, III et al.** (U.S. Pat. 5,680,496) and **Bell** (U.S. Pat. 5,410,458) disclosed individually, or suggest when combined, an elongated

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member having a cavity inside which an elongated light source is positioned. The elongated member is forcibly inserted into an elongated carrier. The elongated light source is inserted in the cavity of the elongated member through a slot, which is kept close by the elongated carrier once the elongated member is inserted into such carrier. The slot is not forced by the carrier into a closed or substantially closed position, but maintains a gap, such gap being prevented by the carrier from being opened. The slot, even with the gap, was considered operationally closed, as the light source could not be removed from the elongated member through such gap. However, applicant argued that the claimed invention's closed or substantially closed slot limitation was not functionally equivalent to the "operationally closed with a gap" slot structure suggested by the combined teachings of **Burkitt, III et al.** and **Bell**. The gap, the applicant argued, compromises the structural integrity/strength of the elongated member resulting in reduced protection of the elongated light source. Such arguments were considered meritorious and sufficient to overcome the rejections based on **Burkitt, III et al.** and **Bell**.

4. Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ismael Negron whose telephone number is (571) 272-2376. The examiner can normally be reached on Monday-Friday from 9:00 A.M. to 6:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra L. O'Shea, can be reached on (571) 272-2378. The facsimile machine number for the Art Group is (703) 872-9306.

6. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications maybe obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, go to <http://pair-direct.uspto.gov>. Should you have questions on access to Private PAIR system, contact the Electronic Business Center (EBC) toll-free at 866-217-9197.


Inr

March 11, 2005


JOHN ANTHONY WARD
PRIMARY EXAMINER